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**Attorneys for Defendant**

**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA**

JOSUE SOTO, GHAZI RASHID, MOHAMED )  
 ABDELFAH, on Behalf of All Aggrieved )  
 Employees, All Others Similarly Situated, and )  
 the General Public, )

**CASE NO. 08-CV-0033-L-AJB**

Plaintiffs, )  
 vs. )

DIAKON LOGISTICS (DELAWARE) INC., a )  
 foreign corporation; and )  
 DOES 1 through 50, inclusive, )  
 Defendants. )

**CLASS ACTION**

DIAKON LOGISTICS (DELAWARE) INC., )  
 Counterclaimant, )

vs. )  
 JOSUE SOTO, )  
 Counterclaim Defendant. )

**JOINT MOTION TO  
 CONSOLIDATE BRIEFING  
 SCHEDULES AND HEARING  
 DATES ON MOTIONS TO DISMISS**

DIAKON LOGISTICS (DELAWARE) INC., )  
 Third-Party Plaintiff, )

vs. )  
 SAYBE'S, LLC, ABDUL TRUCKING, INC., )  
 and RASHID TRUCKING, INC., )  
 Third-Party Defendants. )

Defendant/Counterclaimant/Third-Party Plaintiff, Diakon Logistics (Delaware), Inc.  
 ("Diakon") and Plaintiffs Josue Soto, Ghazi Rashid and Mohamed Abdelfattah, by and through  
 their respective counsel, respectfully request that this Court consolidate the briefing schedule and

1 hearing dates on the presently pending Motion to Dismiss Amended Counterclaim as to Josue  
2 Soto and Motion to Dismiss Third Party Complaint of Diakon against Saybe's, LLC, Abdul  
3 Trucking, Inc., and Rashid Trucking, Inc. so that both motions are briefed for an August 11,  
4 2008, hearing date and set for an August 11, 2008, hearing, for the following reasons:

5 1. Plaintiffs have filed in this action as Docket Entry No. 41, Plaintiffs' Motion to  
6 Dismiss Amended Counterclaim as to Josue Soto Pursuant to Fed. R. Civ. P. 12(b)(6), and have  
7 set the hearing date for the motion as July 21, 2008.

8 2. Plaintiffs have filed in this action as Docket Entry No. 43, Plaintiffs' Motion to  
9 Dismiss First Amended Third Party Complaint of Diakon Logistics (Delaware), Inc. against  
10 Saybe's, LLC, Abdul Trucking, Inc., and Rashid Trucking, Inc., pursuant to Fed. R. Civ. P.  
11 12(b)(6), and have set the hearing date for the motion as August 11, 2008.

12 3. The two pending motions raise substantially similar challenges to Diakon's  
13 Counterclaim and Diakon's Third-Party Complaint, and it would conserve both the resources of  
14 this Court and of the parties if the briefing schedules and hearing date are coordinated.

15 WHEREFORE, Plaintiffs and Diakon respectfully request that the hearing on Docket  
16 Entry No. 41, Plaintiffs' Motion to Dismiss Amended Counterclaim as to Josue Soto Pursuant to  
17 Fed. R. Civ. P. 12(b)(6), be continued to August 11, 2008, to be held in conjunction with the  
18 hearing on Docket Entry No. 43, Plaintiffs' Motion to Dismiss First Amended Third Party  
19 Complaint of Diakon Logistics (Delaware), Inc. against Saybe's, LLC, Abdul Trucking, Inc. and  
20 Rashid Trucking, Inc. Pursuant to Fed. R. Civ. P. 12(b)(6), and that the briefing schedule be  
21 coordinated on the two motions so that oppositions are filed and served no later than July 28,  
22 2008 and replies are filed and served no later than August 4, 2008.

23 Respectfully submitted:

24 Dated: June 24, 2008

SCOPELITIS, GARVIN, LIGHT, HANSON  
& FEARY, LLP

25  
26 By: /s/ Christopher C. McNatt, Jr  
27 Christopher C. McNatt, Jr.  
28 Attorneys for Defendant, Counterclaimant,  
and Third-Party Plaintiff Diakon Logistics  
(Delaware), Inc.

1 Dated: June 24, 2008

EMGE & ASSOCIATES

3 By: /s/ Derek J. Emge

Derek J. Emge

Attorneys for Plaintiff, Josue Soto, Ghazi  
Rashid, Mohamed Abdelfattah, On Behalf  
of All Aggrieved Employees, All Other  
Similarly Situated, and the General Public

8 CERTIFICATE OF SERVICE

9 I hereby certify that a copy of the foregoing has been served electronically via the court's  
10 ECF system upon the following counsel of record, this 24<sup>th</sup> day of June, 2008:

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17 /s/ Christopher C. McNatt, Jr.  
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19 H:\Users\newton\RJT\DiakonLog-10610\consolidated plead\Joint Motion to Consolidate Hearing Dates on Motions to Dismiss.6.20.08.doc